



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

MAR 31 2006

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Greg Traczek, Plant Manager
Koppers Inc.
3900 South Laramie Avenue
Stickney, Illinois 60804

Re: Consent Agreement and Final Order
Koppers Inc., Stickney, Illinois

Dear Mr. Traczek:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Koppers Inc., Docket No. OPA-05-2006-0021. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 31 2006.

Pursuant to paragraph 73 of the CAFO, Koppers Inc, must pay the civil penalty within 30 days of MAR 31 2006. Your check must display the case docket number, and the billing document number 050306022.

Please direct any questions regarding this case to Andre Daugavietis, Associate Regional Counsel, at (312) 886-6663.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable", with a stylized flourish at the end.

Brent Marable, Chief
Air Enforcement and Compliance Assurance section (IL/IN)

Enclosure

cc: James Morrin, Esq.
The Morrin Group

Julie K. Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency

Harish Narayen, Acting Regional Manager
Region 1
Illinois Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Koppers, Inc.
Stickney, Illinois,

Respondent.

) Docket No. CAA-05-2006-0021
)
) Proceeding to Assess a Civil
) Penalty under Section 113(d)
) of the Clean Air Act,
) 42 U.S.C. § 7413(d)

)
)
)

Consent Agreement and Final Order

I. Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22 (2004).
2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA).
3. The Respondent is Koppers, Inc., a corporation doing business in Stickney, Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40

C.F.R. § 22.13(b) (2004).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

II. Statutory and Regulatory Background

7. Under Section 112 of the Act, the Administrator of EPA promulgated the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Equipment Leaks at 40 C.F.R. Part 63, Subpart H.
8. Section 113(a) of the CAA, 42 U.S.C. § 7413(a), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of a SIP, permit, or any other rule promulgated, issued or approved under the CAA.
9. Per 40 C.F.R. § 63.100(b), Subpart H applies to the owner or operator of a chemical manufacturing process unit (CMPU) that:
 - a. Manufactures as a primary product one or more of the chemicals listed in table 1 of subpart F.
 - b. Uses as a reactant or manufactures as a product, or co-product, one or more of the organic hazardous air pollutants listed in table 2 of Subpart F.
 - c. Is located at a plant site that is a major source as defined in section 112(a) of the Act.

10. The Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (40.C.F.R. 60.480, et seq., subpart VV) were proposed on January 5, 1981, and were made both final and effective on October 18, 1983 (48 Fed. Reg. 48335).
11. Title V of the Act, 42 U.S.C. §§ 7661 et seq., established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator of U.S. EPA a permit program meeting the requirements of Title V.
12. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. part 70, providing for the establishment of Title V permitting programs.
13. The regulation at 40 C.F.R. § 70.7(b) prohibits a source, which is subject to 40 C.F.R. part 70, from operating except in compliance with a permit issued under a 40 C.F.R. part 70 program.
14. U.S. EPA promulgated final approval of the Illinois Title V program on December 4, 2001 (66 Fed. Reg. 62946), and the program became effective on that date.
15. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that it is unlawful for any person to violate any requirement of a permit issued under Title V of the Act.

16. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for emission violations that occurred between January 31, 1997 and March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for emission violations that occurred on and after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended at 69 Fed. Reg. 7121 (February 13, 2004).

III. Factual Allegations

17. Respondent is a "person" as defined at Section 302 (e) of the Clean Air Act, 42 U.S.C. §7602(e).
18. Koppers, Inc. owns and operates a chemical plant 3900 South Laramie Avenue, Stickney, Illinois 60804 ("the Facility").
19. The Facility is a "major source" as defined in Section 112(a) of the Act.
20. The Illinois Environmental Protection Agency (IEPA) last issued a Title V permit [No. 96030134] for the Facility on July 20, 2004.
21. At the Facility, a CMPU manufactures chemical oils, coal tar distillates, creosotes, coal tar pitches and phthalic anhydride (PA) using ortho-xylene (o-xylene) as a reactant.
22. PA is a product listed in Table 1 of subpart F with a Group III designation. O-xylene is a reactant listed in Table 2 of subpart F. Therefore, subparts F and H apply to the PA CMPU

at the Facility.

23. The o-xylene CMPU at the Facility is an existing source.
24. Pursuant to the requirements of 40 C.F.R. § 63.100(k)(3), the Facility's PA CMPU, which is designated Group III, must comply with the provisions of subparts F and H no later than April 24, 1995.
25. The PA CMPU at the Facility is subject to EPA Reference Method 21 Leak Detection and Repair monitoring (40 C.F.R. part 60 Appendix A). See 40 C.F.R. § 63.163(b)(1), 40 C.F.R. § 63.168(b)(1), 40 C.F.R. § 63.174(a)(1), and 40 C.F.R. § 63.180(b)(1).
26. Section 63.180(b) of Subpart H, 40 C.F.R. Part 63, requires that monitoring performed pursuant to Subpart H shall comply with EPA Reference Method 21 Leak Detection and Repair monitoring. (40 C.F.R. Part 60 Appendix A).
27. Respondent has implemented a Subpart H "leak detection and repair" (LDAR) monitoring program at the Facility.
28. During an inspection of the Facility on October 5-6 and 8, 2004, U.S. EPA conducted "leak detection and repair" (LDAR) monitoring on a sample of the Facility's PA CMPU equipment and components per EPA Reference Method 21 (40 C.F.R. part 60 Appendix A).
29. During that inspection, EPA detected 12 leaks at the Facility's equipment (as described above), most of which were confirmed by Koppers regular LDAR contractor in side-by-side sampling. A "leak" is defined as an instrument

reading of 500 ppm or greater under Sections 63.168 and 63.174 of Subpart H. Complainant finds that these 12 leaks represent a significantly higher percentage of leaks than were detected and/or reported in previous monitoring events by Respondent.

IV. Alleged Violations

Count 1 - Incorrect Calibration

30. Under the regulation at 40 C.F.R. part 60, Appendix A - Method 21 (8.1.2.2), the monitoring device's calibration should be equal to or less than 10 percent of the calibration gas value.
31. U.S. EPA has found that the Facility's monitoring device was reading 16 and 19 percent lower than the known value of the calibration gas.
32. By using at the Facility a leak monitoring device that read 16 and 19 percent lower than the known value of the calibration gas, Koppers violated Method 21 of 40 C.F.R. part 60 Appendix A (8.1.2.2).

Count 2 - Failure to Calibrate Close to Regulated Level

33. The regulation at 40 C.F.R. § 63.180(b)(4)(ii)(C) specifies requirements for the calibration gas that is to be used for calibrating the Facility's monitoring device.
34. U.S. EPA has found that the Facility's monitoring devices were calibrated only with 100 ppm calibration gas, while most of the Facility's components fall under a 500 ppm leak

level concentration rule. Such calibration is not in compliance with the requirements at 40 C.F.R.

§ 63.180(b)(4)(ii)(C).

35. By not calibrating the Facility's monitoring instrument using a calibration gas as specified in 40 C.F.R.

§ 63.180(b)(4)(ii)(C), Koppers violated 40 C.F.R.

§ 63.163(b)(1), 40 C.F.R. § 63.168(b)(1), 40 C.F.R.

§ 63.174(a)(1).

Count 3 - Failure to Identify Subject Equipment

36. Under the regulation at 40 C.F.R. § 63.162(c), Koppers was required to clearly identify equipment at the Facility subject to the monitoring rule.

37. U.S. EPA has found that Koppers had not adequately established (either physically, or on paper) which components at the Facility are subject to monitoring requirements.

38. By not clearly establishing what components are subject to 40 C.F.R. 63 subpart H, either physically or in a plant site plan, Koppers is in violation of 40 C.F.R. § 63.162(c); section 5.4.2 (C) of its Title V operating permit; and the Illinois SIP requirements at IAC 218.422.

Count 4 - Failure to Identify Leaking Components

39. Under the regulation at 40 C.F.R. § 63.162 (f), Koppers was required to physically identify leaking components at the Facility as they were found.

40. Based on the October 2004 inspection and personnel interviews, U.S. EPA has found that Koppers had not identified leaking components as they were found at the Facility.
41. By not physically identifying leaking components as they were found to be leaking, Koppers violated 40 C.F.R. § 63.162(f); section 5.4.2 (f)(i) of its Title V operating permit; and the Illinois SIP requirements at IAC 218.423(i).

Count 5 - Failure to Find Maximum Leak

42. Leak detection monitoring of components must follow the requirements of Method 21. 40 C.F.R. § 63.163(b)(1); 40 C.F.R. § 63.168(b)(1); 40 C.F.R. § 63.174(a)(1); 40 C.F.R. § 63.180(b)(1).
43. Based upon information including the 12 leaks detected during the October, 2004 inspection of the Facility, Complainant alleges that Respondent failed to monitor in accordance with EPA Reference Method 21 during previous LDAR monitoring events.
44. U.S. EPA finds that Koppers failed to monitor components at the Facility in accordance with Method 21, and failed to find the maximum leak during LDAR monitoring of valves and connectors for the period of 1996 (when initial monitoring was required under the regulations at issue) to the time of the inspection.

45. These failures are violations of 40 C.F.R. § 63.163(b)(1); 40 C.F.R. § 63.168(b)(1); 40 C.F.R. § 63.174(a)(1); 40 C.F.R. § 63.180(b)(1); Method 21 of 40 C.F.R. part 60 Appendix A; and 40 C.F.R. § 63.4(a)(1); sections 5.4.8(b)(i), 5.4.14(a)(i), and 5.9.6(b) of Koppers' Title V operating permit; and the Illinois SIP requirements at IAC 218.423.

Count 6 - "Open-Ended Line" Violations

46. Under the regulation at 40 C.F.R. § 63.167(a)(1), open ended lines/valves at the Facility are to be plugged or double blocked.
47. U.S. EPA has found that the Facility had an open-ended line/valve, as well as an additional process area with insufficient double blocking.
48. This is a violation of 40 C.F.R. § 63.167(a)(1); section 5.4.20 (a) and (b) of Koppers' Title V operating permit; and the Illinois SIP requirements at IAC 218.428.

Count 7 - Failure to Report Number of Leaking Components

49. Under the regulation at 40 C.F.R. § 60.487(c)(2) (subpart WV), for each month during the semiannual reporting period, the Facility must report the number of components for which leaks were detected.
50. U.S. EPA finds that Koppers' semi-annual reports to IEPA for the Facility under subpart WV did not accurately summarize the number of leaks detected in the subpart H regulated

train of equipment.

51. By submitting semi-annual reports to Illinois EPA that do not accurately summarize the number of leaks detected in subpart H monitored equipment at the Facility, Koppers violated 40 C.F.R. § 60.487(c)(2); the NSPS for Equipment Leaks of Volatile Organic Chemicals in the Synthetic Organic Chemicals Manufacturing Industry; sections 5.7.6 (a) of its Title V operating permit; and the Illinois SIP requirements at IAC 218.426(a).

V. Compliance

52. Respondent represents and certifies that it is in compliance with the requirements that formed the basis of the allegations in Section IV of this CAFO. In order to achieve and maintain compliance, Respondent agrees to take steps including but not limited to the following:

Calibration

- a) Calibrate its monitoring device(s) in accordance with the regulations at 40 C.F.R. part 60, Appendix A - Method 21 (8.1.2.2), and using a calibration gas as specified in 40 C.F.R. § 63.180(b)(4)(ii)(C). Specific calibration levels will be set forth in Respondent's "LDAR O&M Manual" document.

Identify Subject Equipment

- a) Undertake an audit of its facility operations and clearly establish which components are subject to the requirements of 40 C.F.R. 63 subpart H, as specified in the regulation at 40 C.F.R. § 63.162(c). The parties note that at the time of CAFO entry, Koppers has employed an independent contractor to perform a series of inspections and reviews at the Stickney facility and has nearly completed a comprehensive re-development of its LDAR

program. The methodology utilized in the LDAR program re-development is intended to satisfy the LDAR audit requirements of this CAFO.

Identify Leaking Components

- a) Physically identify leaking components as they are found to be leaking, as specified in the regulation at 40 C.F.R. § 63.162(f).

Monitoring

- a) Conduct timely quarterly LDAR monitoring of all applicable valves, connectors, and pumps for the affected process units at the Facility. Due to the re-constitution of Respondent's LDAR program at the Facility, monitoring frequencies shall be as for initial or "Phase 1" monitoring under 40 C.F.R. 63.163(b)(1) for pumps, 40 C.F.R. 63.168(d) for valves, 40 C.F.R. 63.174(b)(3) for connectors.
- b) Perform the LDAR monitoring per the HON regulations, 40 C.F.R. 63 Subpart H, using U.S. EPA Reference Method 21.
- c) For the LDAR monitoring, beginning with the second Quarter of 2006, utilize an analyzer equipped with a data logger which automatically records the emission levels detected at each component and the date and time that each sample is taken. If an equivalent or superior data recording instrument becomes available, Respondent may request approval to use such instrument.
- d) The LDAR monitoring may be performed by an outside contractor.
- e) Provide the results of the LDAR monitoring event to EPA within 30 days after the end of each calendar quarter.

Open-Ended Lines

- a) Plug or double block open ended lines/valves at the Facility as specified in the regulation at 40 C.F.R. § 63.167(a)(1).

- 53. Respondent has developed, with review by EPA, a LDAR program/compliance plan document, known as the "LDAR O&M Manual," which specifies in more detail how Respondent will

achieve and maintain compliance with the requirements that formed the basis of the allegations in Section IV of this CAFO. Respondent agrees to implement the program elements set forth in the LDAR O&M Manual.

VI. Procedural Matters

54. On February 15, 2005, EPA issued the Respondent a Finding of Violation giving notice of the violation alleged above, and offering the Respondent an opportunity to confer with EPA.
55. On March 15, 2005, and subsequent dates, the Respondent conferred with EPA regarding the alleged violation and potential resolution of this matter.

VII. Jurisdiction and Waiver of Right to Hearing

56. Respondent admits the jurisdictional allegations in this CAFO, but denies all factual allegations and conclusions of law regarding the violation alleged. Respondent believes that its monitoring program has at all times complied with Method 21 and other relevant regulations.
57. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO under Section 113(d) of the Act, 42 U.S.C. § 7413(d), or otherwise.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

58. As part of resolution of this matter, Respondent agrees to undertake an "Enhanced Monitoring, Repair and Prevention

Program" with requirements including leak monitoring, recordkeeping, leak prevention and reporting. Elements of the Enhanced Monitoring, Repair and Prevention Program are contained in the Supplemental Environmental Project (SEP) set forth below. Respondent agrees to undertake the following portions of the Enhanced Monitoring, Repair and Prevention Program as a SEP:

Enhanced Monitoring, Repair and Prevention Program

In order to pro-actively discover, repair and prevent equipment leaks, Respondent shall take the following steps:

Enhanced Monitoring

- a. As part of the resolution of this matter, and in order to provide additional information about equipment leaks at the facility, for a period of three (3) years from, and beginning on the date this CAFO is filed, perform LDAR monitoring for valves and connectors more frequently than required under the LDAR regulations. Monitoring shall be on the following schedule for three (3) years:

Valves - Quarterly;
Connectors - Semi-Annually;

and after this 3 year period, monitoring frequency shall remain on this schedule unless and until the monitoring results demonstrate that the facility's leak detection rate qualifies it for "Phase III monitoring," as specified in Sections 63.168 and 63.174 of 40 CFR 63 Subpart H.

- b. Perform and report this monitoring per applicable HON regulations, 40 C.F.R. 63 Subpart H, using U.S. EPA Reference Method 21.
- c. For the LDAR monitoring, beginning with the second Quarter of 2006, utilize an analyzer equipped with a

data logger which automatically records the emission levels detected at each component and the date and time that each sample is taken. If an equivalent or superior data recording instrument becomes available, Respondent may request approval to use such instrument.

- d. The LDAR monitoring may be performed by an outside contractor.
- e. Submit a schedule of the monitoring events to EPA. Respondent may modify the schedule with 15 days advance written notice to EPA.
- f. Provide the results of each LDAR monitoring event to EPA within 30 days after the end of each calendar quarter.
- g. "Enhanced" monitoring shall be performed in periods when monitoring is not required by regulation. Monitoring required by regulation shall not be delayed, postponed or cancelled due to any "enhanced" monitoring requirements.

More Stringent Leak Repair Standard

- h. For a 3-year period, use a reduced leak "repair action level" standard (below the regulatory leak definition) for valves, connectors, and pumps as follows: 250 ppm for valves, 250 ppm for connectors, and 500 ppm for pumps. These leak levels will trigger repair as described in the HON regulations, 40 C.F.R. 63 Subpart H. For all other purposes, the leak definition shall remain as defined in the HON regulations.

Upgrading Components - New Technology

- i. For a 3-year period, on an annual basis within 60 days of the end of each calendar year, evaluate upgrading valves, connectors and pumps to utilize improved technology, or environmentally enhanced alternatives or processes or technology, to provide improved pollution prevention (such as audits for short-bolting, or other improvements for the different types of components). Each evaluation will be documented with details

regarding actions taken and conclusions made.

- j. For a 3-year period, on an annual basis within 60 days of the end of each calendar year, evaluate upgrading leaking or even non-leaking pumps to either double mechanical seal pumps or seal-less pumps (meeting the requirements of the HON), to eliminate the need for monitoring these components and to reduce fugitive emissions from them. Each evaluation will be documented with details of conclusions reached and actions taken.
- k. For a 3-year period, on an annual basis within 60 days of the end of each calendar year, evaluate and, if appropriate, utilize more aggressive alternatives as part of the leak repair process. This includes, for example, "drill and tap" repair technology for valves where there is no risk of product contamination, process interference, equipment damage, an explosion or other hazard or adverse reaction such that the valve would not be placed on the delay of repair list. Each evaluation shall be documented with details of conclusions reached and actions taken.

Prevention of Component Leaks

- l. Within 90 days of development of the Root Cause Analysis (described in n., below) develop a maintenance and corrective action program, incorporating the results of the Root-Cause Analysis (below), including processes or technologies, reasonably available, that provide improved prevention measures.
- m. In order to prevent leaks, expend at least \$5,000 each year during the effective period of this CAFO to upgrade or change-out components (such as valves, connectors or pumps) subject to LDAR monitoring requirements.

Root-Cause Analysis

- n. Within one year from the filing of this CAFO, perform an engineering analysis on current and past monitoring results, beginning with results of monitoring from November 2000, to determine potential "root" causes and

sources of such leaks, evaluating factors such as:

- 1) HAP/VOC in-process stream that due to its volatility and/or vapor pressure under certain process conditions has a greater potential to cause a leak;
- 2) areas in the PA process of fluctuating temperature, fluctuating pressure, and/or vibrational movement to determine if the fluctuations (higher/lower) and/or vibrating conditions cause or promote, over time, leaks in components;
- 3) research components from various manufacturers and the leak history of the components; and
- 4) perform "root cause" analysis for types of components (e.g. gate valve, check valve, or a flange) which are identified as leaking 2 or more times in monitoring from November 2000 through one year from the effective date of this Order.

Internal Quality Assurance (QA)/Quality Control (QC)
Audit Procedure

- o. Establish guidelines and procedures to audit the Facility's LDAR program on a biannual basis. These QA/QC procedures will include, but not limited to, the following:
 - 1) Identifying components that are required to be in the LDAR program;
 - 2) Ensure all components in the program were monitored in the appropriate frequency;
 - 3) Spot check of LDAR personnel while conducting LDAR monitoring in the field;
 - 4) Review all repair records for first attempts to be made within 5 days and final repairs within 15 days;
 - 5) For all equipment placed on shutdown or delay of repair, ensure proper documentation and sign-offs have been put in place;

6) Review monitoring data and component counts (monitored components per day) for feasibility;

7) Make sure proper calibration records and organic analyzer maintenance data are stored.

59. No later than sixty (60) days following the effective date of this CAFO, or such longer period as Respondent and U.S. EPA shall agree in writing, Respondent shall enter into contractual arrangements for the work that it chooses to hire out to begin to implement the SEP as set forth above.

60. Except as expressly otherwise permitted by U.S. EPA in writing, the SEP is to continue for three (3) years from the date of its inception under this CAFO.

61. Respondent is required to and agrees to expend at least \$138,000 on the above SEP. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

62. U.S. EPA's SEP project coordinator for this CAFO shall be:

Joseph Ulfig (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA
77 W. Jackson Blvd.
Chicago, IL 60604-3590.

Respondent's SEP project coordinator for this CAFO shall be:

Stephanie Flynn
Environmental Manager
Koppers Inc.
3900 South Laramie Avenue
Stickney, Illinois 60804

63. Within sixty (60) days after three (3) years of the SEP has

been implemented, Respondent shall submit a SEP Completion Report which shall contain the following information on the SEP:

- a. A description of the project as implemented;
- b. Submit documentation of all evaluations under the Enhanced Monitoring, Repair and Prevention Program conducted under the project, including the Root Cause Analysis.
- c. A description of any problems encountered, and the solutions thereto;
- d. Certification that the project has been fully implemented pursuant to the provisions of this CAFO; and
- e. Itemized costs of each project.
- f. Description of the environmental and public health benefits resulting from the Projects (quantify the benefits and pollution reductions).

64. Respondent agrees that failure to timely submit the SEP Completion Report shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 82, below.

65. In the SEP Completion report, Respondent must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

66. Following receipt of a SEP Completion Report described in Paragraph 63, above, U.S. EPA will notify Respondent, in writing: i) indicating any deficiencies in the SEP

Completion Report itself, along with a grant of an additional thirty (30) days for Respondent to correct such deficiencies; or (ii) indicating that EPA concludes that the SEP Projects have been completed satisfactorily; or (iii) determining that the SEP Projects have not been completed satisfactorily and seeking stipulated penalties in accordance with paragraph 82, below.

67. The determination of whether the SEP, or any of its elements, has been substantially and satisfactorily completed shall be in the sole discretion of EPA. EPA shall exercise such discretion reasonably and give due regard to all relevant facts. Such determinations are subject to the dispute resolution provisions of this CAFO.
68. For three years from the effective date of this CAFO, Respondent shall maintain legible copies of documentation of all records of costs incurred for the SEP Projects, and underlying research and data for any documents or reports submitted to EPA pursuant to this CAFO, and shall make such materials available to U.S. EPA upon request. Respondent agrees that U.S. EPA may inspect Respondent's facilities at any time in order to confirm that the SEP is being undertaken in conformity with the requirements of this CAFO.
69. If the SEP is not timely completed, or if Respondent fails to comply with any other provision of the requirements for

the SEP, the stipulated penalty provisions of paragraph 82, below, shall apply.

70. Respondent hereby certifies that, as of the date of this Consent Agreement, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required (or likely to be required) to perform or develop the SEP by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.
71. In order to ensure that no financial benefit or gain is derived by Respondent for any VOC reductions resulting from actions credited under this CAFO, no emission reductions associated with any such SEP shall be used to demonstrate compliance with the Illinois Emissions Reduction Market System ("ERMS"), 35 Ill. Adm. Code § 205.110 et seq., or otherwise made available for sale, trade or banking in the ERMS.
72. Any public statement, oral or written, made by Respondent making reference to the SEP shall include the following language:

This project was undertaken in connection with the settlement of an enforcement action undertaken by the U.S. Environmental Protection Agency.

IX. Civil Penalty

73. Based upon an evaluation of the facts alleged in this complaint, the factors in Section 113(e) of the Act, EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991, including Appendix 6, 'Volatile Hazardous Air Pollutant Civil Penalty Policy (dated March 2, 1988), Respondent's co-operation and good faith in taking steps to comply with the applicable LDAR program requirements and resolving this matter, Respondent's agreement to perform the compliance steps set forth above, Respondent's agreement to implement the Enhanced Monitoring, Repair and Prevention Program described above as a SEP, EPA has determined that an appropriate civil penalty to settle the violations alleged herein is \$80,000.
74. Complainant agrees to this penalty figure based on the best information available to Complainant at this time.
75. Complainant has determined the penalty amount in part based on information submitted to EPA by Respondent.
76. Respondent shall pay the civil penalty referenced above, by cashier's or certified check, payable to the "Treasurer, United States of America" within thirty (30) days of the effective date of this CAFO.
77. Respondent shall send the cashier's or certified check to the following address:

U.S. EPA, Region 5
P.O. Box 70753
Chicago, Illinois 60673

78. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Joseph Ulfig (AE-17J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

and

Andre Daugavietis (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

79. This civil penalty is not deductible for federal tax purposes.
80. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of

the civil penalty are not reviewable in a collection action.

81. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C.

§ 3717. Respondent will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Respondent will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Stipulated Penalties

82. In the event that Respondent fails to comply with any of the terms or provisions of this Agreement relating to the performance of the SEP described above Respondent shall be liable for stipulated penalties according to the provisions set forth below:

a) If the SEP is not substantially completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$50,000.

b) If the SEP is completed substantially satisfactorily in accordance with the SEP requirements above, but Respondent fails to perform a periodic monitoring event required under the SEP, Respondent shall pay a stipulated penalty to the United States in the amount of \$20,000 for such monitoring period.

c) If the SEP is completed substantially satisfactorily in accordance with the SEP requirements above, but Respondent fails to implement a reduced leak "repair action level" standard required under the SEP for any monitoring period, Respondent shall pay a stipulated penalty to the United States in the amount of \$15,000 for such monitoring period.

d) Failure to perform more than one periodic monitoring event required under the SEP, or failure to implement a reduced leak "repair action level" standard required under the SEP for more than one monitoring period, shall indicate that the SEP is not completed satisfactorily pursuant to this CAFO and Order, and Respondent shall pay a stipulated penalty under subparagraph a), above.

e) Failure to substantially and satisfactorily complete the root cause analysis shall indicate that the SEP is not completed satisfactorily pursuant to this CAFO and Order, and Respondent shall pay a stipulated penalty under subparagraph a), above.

f) For failure to submit the SEP Completion Report required by paragraph 63, above, Respondent shall pay a stipulated penalty in the amount of \$50 for each day the report is late, until the report is submitted.

83. For purposes of stipulated penalty assessment, the determinations of whether the SEP, or any of its elements, has been substantially and satisfactorily completed shall be in the sole discretion of EPA. EPA shall exercise such discretion reasonably and give due regard to all relevant facts. Such determinations are subject to the dispute resolution provisions of this CAFO.
84. Respondent shall pay stipulated penalties not more than thirty (30) days after receipt of written demand by EPA for

such penalties. The provisions of pars. 76-81, above, shall apply to any stipulated penalties under this CAFO. Method of payment of stipulated penalties shall be in accordance with the provisions of paragraphs 76-78, above.

Force Majeure

85. If any event occurs which causes or may cause delays in the completion of any compliance or SEP steps required under this Agreement, Respondent shall notify Complainant in writing not more than 10 days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this Agreement based on such incident.
86. If the parties agree that the delay or anticipated delay in compliance with this Agreement has been or will be caused by

circumstances entirely beyond the control of Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

87. In the event that the EPA does not agree that a delay in achieving compliance with the requirements of this Consent Agreement and Order has been or will be caused by circumstances beyond the control of the Respondent, EPA will notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.
88. The burden of proving that any delay is caused by circumstances entirely beyond the control of the Respondent shall rest with the Respondent. Increased costs or expenses associated with the implementation of actions called for by this Agreement shall not, in any event, be a basis for changes in this Agreement or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

Compliance Reporting

89. Respondent shall provide to EPA two Compliance Reports which describe the steps Respondent takes to maintain and ensure compliance with the requirements of the applicable

regulations and this CAFO. The Compliance Report will be submitted by December 31st of 2006 and 2007, and contain the following information:

- a) The results of the LDAR monitoring, including individual monitoring data (preferably electronic), and of the Enhanced Monitoring Repair and Prevention Program, including specifying the leaks that were monitored, the repair actions taken, the date of repair, results of confirmation monitoring;
- b) Describe the equipment leaks which were detected during the year and reviewed under the Root Cause Analysis, and the steps taken to correct them;
- c) Set forth any improvements to the monitoring program that Respondent's experience indicates might be helpful in identifying, preventing, reducing and/or repairing equipment leaks; and,
- d) Submit documentation of all evaluations, including "leak cause" and "component upgrade" evaluations, under the Enhanced Monitoring, Repair and Prevention Program conducted during the year.
- e) Submit results of the Root Cause Analysis under the Enhanced Monitoring, Repair and Prevention Program conducted through November of the reporting year.
- f) Submit results of Internal QA/QC Audit Procedure conducted through November of the reporting year.
- g) Submit information or results through November of the reporting year of the information required under paragraphs 58 (i), (j) and (k), above.

IX. Dispute Resolution

90. For purposes of this CAFO, the parties will use their best efforts to informally and in good faith resolve all disputes

or differences of opinion.

91. If either party disagrees, in whole or in part, with any decision made or action taken under this CAFO, that party will notify the other party's Compliance Manager of the dispute. The Compliance Managers will attempt to resolve the dispute informally.
92. If the Compliance Managers cannot resolve the dispute informally, either party may pursue the matter formally by placing its objections in writing. A written objection must state the specific points in dispute, the basis for that party's position, and any matters which it considers necessary for determination.
93. EPA and Respondent will in good faith attempt to resolve the dispute through formal negotiations within 21 business days, or a longer period if agreed in writing by the parties. During formal negotiations, either party may request a conference with appropriate senior management to discuss the dispute.
94. If the parties are unable to reach an agreement through formal negotiations, within 14 business days after any formal negotiations end, Respondent and EPA's Compliance Manager may submit additional written information to the Director of the Air and Radiation Division, EPA Region 5. EPA will maintain a record of the dispute, which will contain all statements of position and any other documentation submitted pursuant to this Section. EPA will

allow timely submission of relevant supplemental statements of position by the parties to the dispute. Based on the record, EPA will respond to Respondent's arguments and evidence and provide a detailed written decision on the dispute signed by the Director of the Air and Radiation Division, EPA Region 5 ("EPA Dispute Decision").

95. If, at the conclusion of the Dispute Resolution process, Respondent notifies EPA that it refuses to implement the EPA Dispute Decision or EPA's selected compliance steps or other remedies, EPA will endeavor to pursue the action(s) it deems necessary, if any, within a reasonable period of time.

X. Compliance Managers

96. EPA and Respondent each shall designate a Compliance Manager. Each Compliance Manager shall be responsible for overseeing the implementation of the steps required under this CAFO. Correspondence regarding the above Compliance Order should be directed through, or copied to, the Compliance Managers. The Parties shall submit, or copy, all reports, submissions, and notifications required by this CAFO to each Compliance Manager.

97. EPA hereby designates its Compliance Manager as:

Joseph Ulfing (AE-17J)
Air & Radiation Division
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

98. Respondent hereby designates its Compliance Manager as:

Stephanie Flynn
Environmental Manager
Koppers Inc.
3900 South Laramie Avenue
Stickney, Illinois 60804

99. The parties shall provide written notice of a change of Compliance Manager.

XII. Final Statement

100. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Factual Allegations section of this CAFO.
101. If Respondent fails to comply with any provision contained in this CAFO, Respondent waives any rights it may possess in law or equity to challenge the authority of EPA to bring a civil action in the appropriate United States District Court to compel compliance with this CAFO.
102. The settlement effected in this CAFO is in part, conditioned upon the accuracy of Respondent's representations to EPA.
103. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law under the Act, other than those alleged herein.
104. Except as provided in paragraph 100, above, this CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local statutes, laws, ordinances and regulations, nor shall it be construed

to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Except as set forth in paragraph 100, above, Compliance with this CAFO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant, and it is the responsibility of Respondent to comply with such laws and regulations.

105. Respondent certifies that it is now in compliance with the requirements that formed the basis of the violations alleged in this CAFO, in that it is performing required monitoring in compliance with EPA Reference Method 21 Leak Detection and Repair monitoring. (40 C.F.R. Part 60 Appendix A).

106. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

107. The terms of this CAFO bind the Parties, and their respective successors and assigns.

108. Each person signing this Consent Agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

109. This CAFO shall terminate upon payment of the required penalty amount and completion of the SEP requirements in section VIII, above, including submission of the information

or reports required under paragraphs 52(e); 58 (e), (f), (i), (j) and (k); 63; and 89;above.

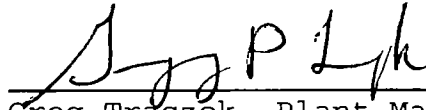
110. Each party agrees to bear its own costs and attorneys' fees in this action.

111. This CAFO constitutes the entire agreement between the parties.

**CONSENT AGREEMENT AND FINAL ORDER
KOPPERS INC., STICKNEY, ILLINOIS**

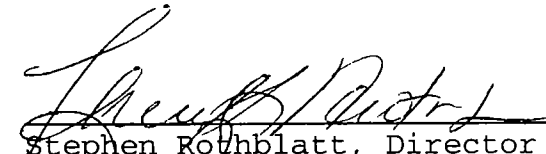
Koppers Inc., Respondent

3/28/06
Date

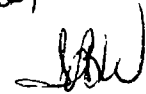

Greg Traczek, Plant Manager
Koppers Inc.
3900 South Laramie Avenue
Stickney, Illinois 60804

U.S. Environmental Protection Agency, Complainant

3/30/06
Date


Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

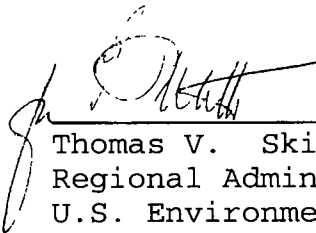
CAA-05-2006-0021



CONSENT AGREEMENT AND FINAL ORDER**KOPPERS INC., STICKNEY, ILLINOIS****Docket No.** CAA-05-2006-0021 *LDW***Final Order**

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Final Order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

3-31-16
Date



Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

CONSENT AGREEMENT AND FINAL ORDER**Koppers Inc., Stickney, Illinois****Docket No.** CAA-05-2006-0021 *BRW***CERTIFICATE OF SERVICE**

I hereby certify that I have caused the original of the foregoing Complaint and Consent Agreement and Final Order (CAFO) to be filed with the Regional Hearing Clerk, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and a copy of the CAFO to be served upon the persons designated below, on the date below, by depositing a copy in the U.S. Mail, certified-return receipt requested, in an envelope addressed to:

Greg Traczek, Plant Manager
Koppers Inc.
3900 South Laramie Avenue
Stickney, Illinois 60804

James R. Morrin, Esq.
The Morrin Group
3034 North Kenmore Avenue
Chicago, Illinois 60657

and by first-class mail to:

Julie K. Armitage, Acting Manager
Compliance and Enforcement Section (MC 40)
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Harish Narayan, Acting Regional Manager
Region I
Illinois Environmental Protection Agency
9511 West Harrison Street
Des Plaines, IL 60016

on the 31ST day of March, 2006.

Betty Williams for
Betty Williams, Administrative
Program Assistant, AECAS IL/IN

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1565 0118 - Greg Traczek
CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1565 0125 - James Morrin, Esq.